

**MINUTES
BOARD OF ADJUSTMENT
PUBLIC HEARING
FEBRUARY 8, 2007**

The Lake County Board of Adjustment met Thursday, February 8, 2007 in the Commission Chambers on the second floor of the Round Administration Building in Tavares, Florida to consider requests for variances and any other petitions that may be submitted in accordance with Chapter XIV of the Lake County Land Development Regulations.

Board Members Present:

Howard (Bob) Fox, Jr.
Henry Wolsmann, Vice Chairman
Lloyd Atkins
Mary Link Bennett
Donald Schreiner, Chairman
Ruth Gray

Staff Present:

Terrie Diesbourg, Director, Zoning Division
Anita Greiner, Chief Planner, Zoning Division
Paul Simmons, Planner, Zoning Division
Anna Ely, Public Hearing Coordinator, Zoning Division
Sherie Ross, Public Hearing Coordinator, Planning and Community Design Division
Melanie Marsh, Deputy County Attorney
LeChea Parson, Assistant County Attorney I

Chairman Schreiner called the meeting to order at 1:00 p.m. He noted for the record that there was a quorum present. He confirmed Proof of Publication for each case as shown on the monitor. He said the Board will dispense with approval of the January 11, 2007 Lake County Board of Adjustment public hearing minutes because staff has not had a chance to review them since they have been in the Emergency Operations Center (EOC) since last Friday morning. The minutes will be approved at the public hearing in March.

In response to Chairman Schreiner, Ms. Greiner said there are no changes to the agenda. Chairman Schreiner stated that if a variance is approved at this public hearing, the owner/applicant should give staff at least 24 hours before proceeding to the zoning counter. He stated that all letters, petitions, photographs, and other materials presented at this meeting by applicants and those in support or opposition must be submitted to staff prior to proceeding to the next case so that they can be placed in the public records.

Chairman Schreiner explained the procedure used in hearing cases on the consent agenda.

Chairman Schreiner spoke of the work that is being done by volunteers in the EOC as well as the donations of money and equipment that have been received.

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BOARD OF ADJUSTMENT

FEBRUARY 8, 2007

CASE NO.:	BOA#147-06-2	AGENDA NO.:	1
OWNERS:	Darren and Margaret Eslinger		
APPLICANT:	Leslie Campione, PA		
CASE NO.:	BOA#23-07-3	AGENDA NO.:	5
OWNER/APPLICANT:	John DaRe		
CASE NO.:	BOA#24-07-5	AGENDA NO.:	6
OWNERS/APPLICANTS:	Clement J. and Teresa Ouellette		

MOTION by Mary Link Bennett, SECONDED by Ruth Gray to accept the withdrawal of BOA#147-06-2, BOA#23-07-3, and BOA#24-07-5.

FOR: Fox, Jr., Wolsmann, Atkins, Bennett, Schreiner, Gray

AGAINST: None

MOTION CARRIED: 6-0

CASE NO.: BOA#140-06-2

AGENDA NO.: 2

OWNER/APPLICANT: Larry A. Grimes

MOTION by Mary Link Bennett, SECONDED by Henry Wolsmann to continue BOA#140-06-2 until the March 8, 2007 Board of Adjustment public hearing and that it be placed first on the agenda.

There was no one in the audience who wished to speak on this continuance.

FOR: Fox, Jr., Wolsmann, Atkins, Bennett, Schreiner, Gray

AGAINST: None

MOTION CARRIED: 6-0

Discussion of Consent Agenda

There was no one on the Board nor anyone in the audience who had an objection to the following cases remaining on the consent agenda: BOA#21-07-5, BOA#25-07-3, BOA#26-07-3, BOA#27-07-5, and BOA#28-07-5.

CASE NO.:	BOA#21-07-5	AGENDA NO.:	3
OWNERS:	Tracy B. Wade and Mona G. & Gerald H. Winn		
APPLICANT:	Tracy B. Wade		
CASE NO.:	BOA#25-07-3	AGENDA NO.:	7
OWNER/APPLICANT:	Andrea L. Nowlan		
CASE NO.:	BOA#26-07-3	AGENDA NO.:	8
OWNERS/APPLICANTS:	Timothy M. and Beverly A. Lind		
CASE NO.:	BOA#27-07-5	AGENDA NO.:	9
OWNERS/APPLICANTS:	Donald J. and Gerty S. Mika		
CASE NO.:	BOA#28-07-5	AGENDA NO.:	10
OWNERS:	Cleo M. Kaprocki and Arthur Ray S. Mika		
APPLICANT:	Cleo M. Kaprocki		

MOTION by Ruth Gray, SECONDED by Mary Link Bennett to take the following actions on the above consent agenda:

BOA#21-07-5	Approval
BOA#25-07-3	Approval
BOA#26-07-3	Approval
BOA#27-07-5	Approval with conditions
BOA#28-07-5	Approval with conditions

FOR: **Fox, Jr., Wolsmann, Atkins, Bennett, Schreiner, Gray**

AGAINST: **None**

MOTION CARRIED: 6-0

CASE NO.:

BOA#22-07-2

AGENDA NO.:

4

OWNERS/APPLICANTS:

Mads and Shantelle Kragh

Anita Greiner, Chief Planner, presented the case and staff recommendation of approval with conditions. She showed the aerial from the staff report on the monitor. She explained that the owners obtained a zoning clearance on May 11, 2006. There was an error made by staff, and the site plan was approved. The owners are now applying for a variance to correct this issue. Ms. Greiner submitted a flood zone map as County Exhibit A. Staff does not have a problem with the location of the structure, but the structure that was placed on the property is what is commonly referred to as a Quonset hut; it does not match aesthetically with the residence. She read into the record staff's recommended conditions for approval of this variance in order to meet the intent of the Code. She noted the two letters of opposition that had been received.

When Ruth Gray asked if staff had checked into the cost of adapting this existing structure to conform with the house and neighborhood, Ms. Greiner said she had not. In response to Ms. Gray, Ms. Greiner said the subject structure received a certificate of occupancy in December of 2006. The structure was complete when the complaint was received by the County. She showed pictures from the staff report on the monitor. Using County Exhibit A, Ms. Greiner pointed out where the writers of the letters of opposition live.

Ms. Gray offered the opinion that the owners would have to sue the County to make them "whole in some way" if this Board insists they make renovations to adapt this building to something that will conform; this will cost money.

Chairman Schreiner said this Board's authority for this case is to approve or disapprove a variance request to allow the existing structure to remain where it is currently located. This Board can also add the staff's recommendations regarding the structure's appearance.

Melanie Marsh, Deputy County Attorney, advised the Board that this variance request is within the Board's jurisdiction to determine whether the request is consistent with the Comprehensive Plan, meets the intent of the Code, or if a substantial hardship exists. Issues of liability, cost, reimbursement, or anything of that nature will be issues taken up by the County with the property owners, depending on what this Board does. Liability is not anything that should come into play when the Board makes its decision.

When Howard (Bob) Fox, Jr. asked if it was legal that the main residence is a mobile home, Ms. Greiner said that has nothing to do with this variance request. That dwelling unit was permitted; it is legal.

Mads and Shantelle Kragh were present to represent the case. When Henry Wolsmann asked if the Kraghs were aware of the conditions, Mr. Kragh said those conditions were not part of the building permit. When Mr. Kragh applied for the building permit, Ms. Greiner said those conditions were not included because he could not put the garage in front of the main residence without coming to this Board first. That was where the error came into play. However, Mr. Kragh has received a copy of the staff report and is aware that staff is recommending approval with conditions.

Fawn Lantes, owner of the adjacent six acres, said she was sorry that the County made a mistake. However, when the Kraghs first bought the property, they had a picture of the property and the house they were going to build; it was not a mobile home. She called the County and was told that mobile homes are not allowed on that property. She said this mobile home is located next to \$900,000 homes. She said the existing garage looks like a hangar; it does not match the property next to it. She as well as her neighbors had to follow the rules.

Ms. Greiner said a mobile home can be placed anywhere a single-family residential unit can be located; there are no restrictions. The County does not enforce deed restrictions. A dwelling unit can be a manufactured home, a mobile home, a stick-built home, or a concrete block home.

CASE NO.: BOA#22-07-2 **AGENDA NO.:** 4
OWNERS/APPLICANTS: Mads and Shantelle Kragh **PAGE NO.:** 2

Mads Kragh said if the main house was on the other side of the garage, there would be no issue with the architectural style. If this type of structure was placed in the side or rear yards, Ms. Greiner said there are no restrictions. However, no detached storage building or garage is allowed in the front yard. Therefore, when such a structure is placed in the front yard, the process requires a variance before that can be done.

Mr. Kragh said it would be practically the same view of the structure for the neighbors whether the garage was in front of or behind the main residence. Since the terrain of the lot somewhat camouflages the garage, the result would be the same. He suggested the option of landscaping to cover up the building. That would be cheaper and much easier for everyone. Ms. Greiner said that is something this Board could take into consideration.

Regarding the first condition, Mary Link Bennett asked if that means the existing garage must be removed and a new structure constructed. Ms. Greiner acknowledged that it would be difficult to make the existing garage match the main residence. Chairman Schreiner said it would not be possible to roof a Quonset hut. When Ms. Gray said the condition does not necessarily mean that the garage must be taken down, Ms. Greiner said a façade could be placed around it. Chairman Schreiner felt that would be the same as constructing another garage.

Ms. Greiner reiterated that the Kraghs did everything they were supposed to do. The Board must decide whether or not this accessory structure is harmful, either aesthetically or physically, to the residents of the surrounding area.

When Ms. Kragh asked if there was a timeframe for fixing the structure to conform, Ms. Greiner said there could be one if this Board should decide to impose a timeframe on the variance conditions. Chairman Schreiner commented that it may be cheaper to remove it and build a conforming structure. When Ms. Kragh asked if the cost would be on them or the County, Ms. Parson said that is something the County would address after the Board of Adjustment makes a decision. The County Attorney's office and the Zoning Division will work with the Kraghs.

If this is an acceptable structure in the rear, Mr. Kragh asked why conditions are being added because it is in the front. Ms. Greiner replied that it would be for aesthetics for the neighboring property owners. This Board must make a determination whether the subject structure is aesthetically harmful.

Ms. Greiner reiterated that the Code section from which they are requesting a variance is to allow the structure to be in the front yard. The Code says the structure cannot be in the front yard. No where in the Code does it say that the structure must match architecturally. That is something she placed in the staff report.

MOTION by Howard (Bob) Fox, Jr., SECONDED by Henry Wolsmann to deny the variance request in BOA#22-07-2.

Ms. Gray said she could not support this motion. She felt these owners have been inconvenienced enough by the County. If this motion is defeated, she would like to make a motion for approval with the conditions recommended by staff in order to meet the intent of the Code and in consideration of the neighbors who have objected. She understood the problem the owners are facing, and she felt they need to go against the County and assert their rights. That is why she did not want to put a six-month limitation on the variance since she did not know what the County will do.

Ms. Greiner explained that if this variance request is denied, no structure, not even one that conforms architecturally, would be allowed in the front yard.

Lloyd Atkins said he felt sympathy for the owners being put in this situation; they followed the process,

CASE NO.: BOA#22-07-2 **AGENDA NO.:** 4

OWNERS/APPLICANTS: Mads and Shantelle Kragh **PAGE NO.:** 3

and the County made a mistake. He did not feel the owners should be penalized for that mistake. He could not vote for this motion either. However, he could support a motion for approval with conditions. Then the owners can work things out further with staff. As a neighbor, he said he would not want to look at the structure; but if it is permitted, it is permitted.

FOR: Fox, Jr.

AGAINST: Wolsmann, Atkins, Bennett, Schreiner, Gray,

MOTION FAILED: 1-5

MOTION by Lloyd Atkins, SECONDED by Ruth Gray to approve the variance request in BOA#22-07-2 with the following conditions:

1. The detached garage must be constructed in the same architectural style as the existing single-family dwelling unit, and the exterior siding and roofing materials must be of the same material and color as the dwelling unit.
2. The detached garage must remain in the location as it exists today, which prevents easy visibility from Log House Road. The mature trees between the structure and Log House Road must be maintained to help prevent visibility.
3. An inspection of the detached garage, to insure the conditions as stated above are met, must be conducted and approved by the Zoning Division.

FOR: Wolsmann, Atkins, Bennett, Schreiner, Gray,

AGAINST: Fox, Jr.

MOTION CARRIED: 5-1

Chairman Schreiner suggested the owners meet with staff to discuss what can be worked out regarding the existing building.

Adjournment

There being no further business, the meeting was adjourned at 1:50 p.m.

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Donald Schreiner
Chairman